

### ***Remarks***

Claims 2-18, 20, and 22 have been canceled without prejudice or disclaimer. Applicants reserve the right to file one or more continuation applications directed to the subject matter encompassed by all canceled claims. Upon entry of the present amendment, claims 1, 19, 21, and 23-82 will be pending. Claims 23-82 have been added to expand the embodiments of the elected subject matter. The new claims are supported by the specification as filed. No new matter has been added.

In particular, support for new claims 23-82 can be found in the specification, for example: at page 5, paragraph [0014], part (e) (complete polypeptide); at page 6, paragraph [0014], part (o) (mature form of polypeptide); at pages 6-7, paragraph [0014], part (t) (extracellular domain of polypeptide); at pages 56-58 (antibodies, antibody fragments, antibody producing cells, monoclonal, chimeric, humanized, single chain, and Fab fragment antibodies); at page 60, paragraph [0137] (ELISA, method of detecting FcR-V polypeptide, antibody labels); at page 82, paragraph [0214] (western blot); and, at page 2, paragraph [0006], page 8, paragraph [0016], pages 31-32, paragraph [0072] (proteins expressed on cell surface).

### **Provisional Election With Traverse**

#### **A. Provisional Election**

The claimed subject matter has been restricted under 35 U.S.C. § 121 into three different groups. *See* Paper No. 72004, page 2. Furthermore, election of a single species has also been requested. *Id.* at page 3, first paragraph.

In order to be fully responsive, Applicants hereby provisionally elect, *with traverse*, the subject matter of Group III corresponding to claim 21, drawn to an isolated antibody that specifically binds to an FcR-V polypeptide of claim 19, and also corresponding to the subject matter encompassed by new claims 23-82. Additionally, in order to be fully responsive, Applicants further provisionally elect, *with traverse*, claims encompassing an antibody species that binds specifically to a protein consisting of amino acid residues -16 to 498 of SEQ ID NO:10. Applicants reserve the right to file one or more continuation applications directed to non-elected subject matter should the restriction requirement be made final.

Applicants submit herewith an amendment adding new claims 23-82. Applicants point out that claim 21 and new claims 23-35 are directed to subject matter falling within the ambit of Group III claims. Applicants further note that claim 21 is a generic linking claim encompassing all of the claimed subject matter within Group III.

**B.      Restriction of Groups 1-3**

With respect to the restriction of the claims into 3 groups and the reasons stated therefore, Applicants respectfully disagree and traverse. Assuming, *arguendo*, that Groups 1-3 represent distinct and independent inventions, restriction remains improper unless it can be shown that the search and examination of all groups would entail a “serious burden.” *See* M.P.E.P. § 803.

In the present situation, Applicants submit that a search of the polynucleotide claims would provide useful information for examining the claims directed to methods of making recombinant cells using the polynucleotides, polypeptides encoded by the polynucleotides, methods of producing and using the polypeptides, and antibodies that bind the polypeptides.

Hence, Applicants submit that a search for polynucleotides would be overlapping with a search of claims in Groups II and III. Accordingly, Applicants request that the restriction requirement be reconsidered and withdrawn.

Applicants retain the right to petition from the restriction requirement under 37 C.F.R. § 1.144.

**C.      Requirement for Species Election**

As noted above, in response to the requirement for an election of species within Group III (*See*, Paper No. 72004, page 3, first paragraph), Applicants have provisionally elected, with traverse, claims encompassing antibodies that bind a protein consisting of amino acid residues –16 to 498 of SEQ ID NO:10, corresponding to claims 23(a), 24, and 28-34. Although Applicants disagree with and traverse the instant species election requirement, Applicants recognize the Examiner’s acknowledgement that if generic linking claim 21 is found to be allowable, all of the species linked by such will be rejoined and examined for patentability. *See* Paper No. 72004, page 3, paragraph 7.

Applicants reserve the right to file one or more continuation applications directed to non-elected subject matter. Applicants also retain the right to petition from the restriction requirement under 37 C.F.R. § 1.144.

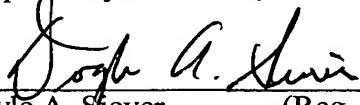
***Conclusion***

Applicants respectfully request that the above-made remarks be entered and made of record in the file history of the instant application. The Examiner is invited to call the undersigned if any further action by Applicant would expedite examination.

If there are any fees due in connection with the filing of this paper, please charge the fees to Deposit Account No. 08-3425.

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Respectfully submitted,

  
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